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26 U.S. BANCORP

27 **UNITED STATES DISTRICT COURT**
28 **CENTRAL DISTRICT OF CALIFORNIA**

29 MARIA BULMAN,
30 Plaintiff,

31 v.

32 U.S. BANCORP, a Delaware
33 corporation; and DOES 1 through
34 50, inclusive,

35 Defendants.

Case No. 8:19-cv-00001-JLS (KESx)

**ORDER RE STIPULATED
PROTECTIVE ORDER**

District Judge: Hon. Josephine L. Staton
Magistrate Judge: Hon. Karen E. Scott

1. A. PURPOSES AND LIMITATIONS

Discovery in this Action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

B. GOOD CAUSE STATEMENT

This action is likely to involve trade secrets, customer and pricing lists and other valuable research, development, commercial, financial, technical and/or proprietary information for which special protection from public disclosure and from use for any purpose other than prosecution of this Action is warranted. Such confidential and proprietary materials and information consist of, among other things, confidential business or financial information, information regarding confidential business practices, or other confidential research, development, or commercial information (including information implicating privacy rights of third parties), information otherwise generally unavailable to the public, or which may be privileged or otherwise protected from disclosure under state or federal statutes, court rules, case decisions, or common law. For example, discovery is expected to involve the exchange of personal information protected by the California constitutional right of privacy and other related statutes protecting the Parties' rights to privacy, including, but not limited to, (a) compensation information; (b) pay histories; (c) Customer information; and (d) Plaintiff's medical

1 records. Accordingly, to expedite the flow of information, to facilitate the prompt
2 resolution of disputes over confidentiality of discovery materials, to adequately protect
3 information the parties are entitled to keep confidential, to ensure that the parties are
4 permitted reasonable necessary uses of such material in preparation for and in the
5 conduct of trial, to address their handling at the end of the litigation, and serve the ends
6 of justice, a protective order for such information is justified in this matter. It is the
7 intent of the parties that information will not be designated as confidential for tactical
8 reasons and that nothing be so designated without a good faith belief that it has been
9 maintained in a confidential, non-public manner, and there is good cause why it should
10 not be part of the public record of this case.

11 2. DEFINITIONS

12 2.1 Action: means the above-captioned action pending in this Court, including
13 any related discovery pretrial, post-trial or appellate proceedings.

14 2.2 Challenging Party: a Party or Non-Party that challenges the designation of
15 information or items under this Order.

16 2.3 “CONFIDENTIAL” Information or Items: information (regardless of how
17 it is generated, stored or maintained) or tangible things that qualify for protection under
18 Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause
19 Statement.

20 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their
21 support staff).

22 2.5 Customer: any individual who utilized Defendant U.S. Bank’s services and
23 is referenced in any way and/or format pursuant to this Action, including, but not limited
24 to, in deposition testimony, documents produced by either Party, written discovery
25 response, and/or briefing

26 2.6 Defendant: U.S. Bancorp.

27 2.7 Designating Party: a Party or Non-Party that designates information or
28 items that it produces in disclosures or in responses to discovery as

1 “CONFIDENTIAL.”

2 2.8 Disclosure or Discovery Material: all items or information, regardless of
3 the medium or manner in which it is generated, stored, or maintained (including, among
4 other things, testimony, transcripts, and tangible things), that are produced or generated
5 in disclosures or responses to discovery in this matter.

6 2.9 Expert: a person with specialized knowledge or experience in a matter
7 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
8 expert witness or as a consultant in this Action.

9 2.10 House Counsel: attorneys who are employees of a party to this Action.
10 House Counsel does not include Outside Counsel of Record or any other outside
11 counsel.

12 2.11 Non-Party: any natural person, partnership, corporation, association, or
13 other legal entity not named as a Party to this Action.

14 2.12 Outside Counsel of Record: attorneys who are not employees of a party to
15 this Action but are retained to represent or advise a party to this Action and have
16 appeared in this Action on behalf of that party or are affiliated with a law firm which
17 has appeared on behalf of that party, and includes support staff.

18 2.13 Party: any party to this Action, including all of its officers, directors,
19 employees, consultants, retained experts, and Outside Counsel of Record (and their
20 support staffs).

21 2.14 Producing Party: a Party or Non-Party that produces Disclosure or
22 Discovery Material in this Action.

23 2.15 Professional Vendors: persons or entities that provide litigation support
24 services (e.g., photocopying, videotaping, translating, preparing exhibits or
25 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
26 their employees and subcontractors.

27 2.16 Protected Material: any Disclosure or Discovery Material that is
28 designated as “CONFIDENTIAL.”

1 2.17 Receiving Party: a Party that receives Disclosure or Discovery Material
2 from a Producing Party.

3 3. SCOPE

4 The protections conferred by this Stipulation and Order cover not only Protected
5 Material (as defined above), but also (1) any information copied or extracted from
6 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
7 Material; and (3) any testimony, conversations, or presentations by Parties or their
8 Counsel that might reveal Protected Material.

9 Any use of Protected Material at trial shall be governed by the orders of the trial
10 judge. This Order does not govern the use of Protected Material at trial.

11 4. DURATION

12 Even after final disposition of this litigation, the confidentiality obligations
13 imposed by this Order shall remain in effect until a Designating Party agrees otherwise
14 in writing or a court order otherwise directs. Final disposition shall be deemed to be the
15 later of (1) dismissal of all claims and defenses in this Action, with or without prejudice;
16 and (2) final judgment herein after the completion and exhaustion of all appeals,
17 rehearings, remands, trials, or reviews of this Action, including the time limits for filing
18 any motions or applications for extension of time pursuant to applicable law.

19 5. DESIGNATING PROTECTED MATERIAL

20 5.1 Exercise of Restraint and Care in Designating Material for Protection.
21 Each Party or Non-Party that designates information or items for protection under this
22 Order must take care to limit any such designation to specific material that qualifies
23 under the appropriate standards. The Designating Party must designate for protection
24 only those parts of material, documents, items, or oral or written communications that
25 qualify so that other portions of the material, documents, items, or communications for
26 which protection is not warranted are not swept unjustifiably within the ambit of this
27 Order.

28 Mass, indiscriminate, or routinized designations are prohibited. Designations that

1 are shown to be clearly unjustified or that have been made for an improper purpose
2 (e.g., to unnecessarily encumber the case development process or to impose
3 unnecessary expenses and burdens on other parties) may expose the Designating Party
4 to sanctions.

5 If it comes to a Designating Party's attention that information or items that it
6 designated for protection do not qualify for protection, that Designating Party must
7 promptly notify all other Parties that it is withdrawing the inapplicable designation.

8 5.2 Manner and Timing of Designations. Except as otherwise provided in this
9 Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated
10 or ordered, Disclosure or Discovery Material that qualifies for protection under this
11 Order must be clearly so designated before the material is disclosed or produced.

12 Designation in conformity with this Order requires:

13 (a) for information in documentary form (e.g., paper or electronic
14 documents, but excluding transcripts of depositions or other pretrial or trial
15 proceedings), that the Producing Party affix at a minimum, the legend
16 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that
17 contains protected material. If only a portion or portions of the material on a page
18 qualifies for protection, the Producing Party also must clearly identify the protected
19 portion(s) (e.g., by making appropriate markings in the margins).

20 A Party or Non-Party that makes original documents available for inspection
21 need not designate them for protection until after the inspecting Party has indicated
22 which documents it would like copied and produced. During the inspection and before
23 the designation, all of the material made available for inspection shall be deemed
24 "CONFIDENTIAL." After the inspecting Party has identified the documents it wants
25 copied and produced, the Producing Party must determine which documents, or portions
26 thereof, qualify for protection under this Order. Then, before producing the specified
27 documents, the Producing Party must affix the "CONFIDENTIAL" legend to each page
28 that contains Protected Material. If only a portion or portions of the material on a page

1 qualifies for protection, the Producing Party also must clearly identify the protected
2 portion(s) (e.g., by making appropriate markings in the margins).

3 (b) for testimony given in depositions that the Designating Party
4 identify the Disclosure or Discovery Material on the record, before the close of the
5 deposition all protected testimony.

6 (c) for information produced in some form other than documentary and
7 for any other tangible items, that the Producing Party affix in a prominent place on the
8 exterior of the container or containers in which the information is stored the legend
9 “CONFIDENTIAL.” If only a portion or portions of the information warrants
10 protection, the Producing Party, to the extent practicable, shall identify the protected
11 portion(s).

12 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
13 failure to designate qualified information or items does not, standing alone, waive the
14 Designating Party’s right to secure protection under this Order for such material. Upon
15 timely correction of a designation, the Receiving Party must make reasonable efforts to
16 assure that the material is treated in accordance with the provisions of this Order.

17 5.4 Customer Identification. A Designating Party shall identify by initials
18 only any and all Customers of Defendant referenced in any and all materials
19 exchanged or created pursuant to the Action, including but not limited to deposition
20 testimony, written discovery, and documents produced. The Parties agree that they
21 shall redact all but the initials of Customers from any documents or transcripts before
22 filing such materials in the public record.

23 5.5 Account Information. A Designating Party shall identify by the last four
24 digits only any and all account or loan numbers belonging to Customers of Defendant
25 and referenced in any and all materials exchanged or created pursuant to the Action,
26 including but not limited to deposition testimony, written discovery, and documents
27 produced. A Designating Party shall redact all but the last four digits of any Customer
28 account or loan numbers.

1 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

2 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
3 designation of confidentiality at any time that is consistent with the Court's Scheduling
4 Order.

5 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
6 resolution process under Local Rule 37.1 et seq. or follow the procedures for informal,
7 telephonic discovery hearings on the Court's website.

8 6.3 The burden of persuasion in any such challenge proceeding shall be on the
9 Designating Party. Frivolous challenges, and those made for an improper purpose (e.g.,
10 to harass or impose unnecessary expenses and burdens on other parties) may expose the
11 Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn
12 the confidentiality designation, all parties shall continue to afford the material in
13 question the level of protection to which it is entitled under the Producing Party's
14 designation until the Court rules on the challenge.

15 7. ACCESS TO AND USE OF PROTECTED MATERIAL

16 7.1 Basic Principles. A Receiving Party may use Protected Material that is
17 disclosed or produced by another Party or by a Non-Party in connection with this Action
18 only for prosecuting, defending, or attempting to settle this Action. Such Protected
19 Material may be disclosed only to the categories of persons and under the conditions
20 described in this Order. When the Action has been terminated, a Receiving Party must
21 comply with the provisions of section 13 below (FINAL DISPOSITION).

22 Protected Material must be stored and maintained by a Receiving Party at a
23 location and in a secure manner that ensures that access is limited to the persons
24 authorized under this Order.

25 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
26 ordered by the court or permitted in writing by the Designating Party, a Receiving Party
27 may disclose any information or item designated "CONFIDENTIAL" only to:

28 (a) the Receiving Party's Outside Counsel of Record in this Action, as

1 well as employees of said Outside Counsel of Record to whom it is reasonably
2 necessary to disclose the information for this Action;

3 (b) the officers, directors, and employees (including House Counsel) of
4 the Receiving Party to whom disclosure is reasonably necessary for this Action;

5 (c) Experts (as defined in this Order) of the Receiving Party to whom
6 disclosure is reasonably necessary for this Action and who have signed the
7 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

8 (d) the court and its personnel;

9 (e) court reporters and their staff;

10 (f) professional jury or trial consultants, mock jurors, and Professional
11 Vendors to whom disclosure is reasonably necessary for this Action and who have
12 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

13 (g) the author or recipient of a document containing the information or
14 a custodian or other person who otherwise possessed or knew the information;

15 (h) during their depositions, witnesses, and attorneys for witnesses, in
16 the Action to whom disclosure is reasonably necessary provided: (1) the deposing party
17 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will
18 not be permitted to keep any confidential information unless they sign the
19 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed
20 by the Designating Party or ordered by the court. Pages of transcribed deposition
21 testimony or exhibits to depositions that reveal Protected Material may be separately
22 bound by the court reporter and may not be disclosed to anyone except as permitted
23 under this Stipulated Protective Order; and

24 (i) any mediator or settlement officer, and their supporting personnel,
25 mutually agreed upon by any of the parties engaged in settlement discussions.

26 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
27 OTHER LITIGATION

28 If a Party is served with a subpoena or a court order issued in other litigation that

1 compels disclosure of any information or items designated in this Action as
2 “CONFIDENTIAL,” that Party must:

3 (a) promptly notify in writing the Designating Party. Such notification
4 shall include a copy of the subpoena or court order;

5 (b) promptly notify in writing the party who caused the subpoena or
6 order to issue in the other litigation that some or all of the material covered by the
7 subpoena or order is subject to this Protective Order. Such notification shall include a
8 copy of this Stipulated Protective Order; and

9 (c) cooperate with respect to all reasonable procedures sought to be
10 pursued by the Designating Party whose Protected Material may be affected.

11 If the Designating Party timely seeks a protective order, the Party served with the
12 subpoena or court order shall not produce any information designated in this Action as
13 “CONFIDENTIAL” before a determination by the court from which the subpoena or
14 order issued, unless the Party has obtained the Designating Party’s permission. The
15 Designating Party shall bear the burden and expense of seeking protection in that court
16 of its confidential material and nothing in these provisions should be construed as
17 authorizing or encouraging a Receiving Party in this Action to disobey a lawful directive
18 from another court.

19 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED
20 IN THIS LITIGATION

21 (a) The terms of this Order are applicable to information produced by a
22 Non-Party in this Action and designated as “CONFIDENTIAL.” Such information
23 produced by Non-Parties in connection with this litigation is protected by the remedies
24 and relief provided by this Order. Nothing in these provisions should be construed as
25 prohibiting a Non-Party from seeking additional protections.

26 (b) In the event that a Party is required, by a valid discovery request, to
27 produce a Non-Party’s confidential information in its possession, and the Party is
28 subject to an agreement with the Non-Party not to produce the Non-Party’s confidential

1 information, then the Party shall:

2 (1) promptly notify in writing the Requesting Party and the Non-
3 Party that some or all of the information requested is subject to a confidentiality
4 agreement with a Non-Party;

5 (2) promptly provide the Non-Party with a copy of the Stipulated
6 Protective Order in this Action, the relevant discovery request(s), and a reasonably
7 specific description of the information requested; and

8 (3) make the information requested available for inspection by
9 the Non-Party, if requested.

10 (c) If the Non-Party fails to seek a protective order from this court
11 within 14 days of receiving the notice and accompanying information, the Receiving
12 Party may produce the Non-Party's confidential information responsive to the discovery
13 request. If the Non-Party timely seeks a protective order, the Receiving Party shall not
14 produce any information in its possession or control that is subject to the confidentiality
15 agreement with the Non-Party before a determination by the court. Absent a court order
16 to the contrary, the Non-Party shall bear the burden and expense of seeking protection
17 in this court of its Protected Material.

18 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

19 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
20 Protected Material to any person or in any circumstance not authorized under this
21 Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing
22 the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve
23 all unauthorized copies of the Protected Material, (c) inform the person or persons to
24 whom unauthorized disclosures were made of all the terms of this Order, and (d) request
25 such person or persons to execute the "Acknowledgment and Agreement to Be Bound"
26 that is attached hereto as Exhibit A.

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1 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
2 PROTECTED MATERIAL

3 When a Producing Party gives notice to Receiving Parties that certain
4 inadvertently produced material is subject to a claim of privilege or other protection,
5 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
6 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
7 may be established in an e-discovery order that provides for production without prior
8 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
9 parties reach an agreement on the effect of disclosure of a communication or
10 information covered by the attorney-client privilege or work product protection, the
11 parties may incorporate their agreement in the stipulated protective order submitted to
12 the court.

13 12. MISCELLANEOUS

14 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
15 person to seek its modification by the Court in the future.

16 12.2 Right to Assert Other Objections. By stipulating to the entry of this
17 Protective Order no Party waives any right it otherwise would have to object to
18 disclosing or producing any information or item on any ground not addressed in this
19 Stipulated Protective Order. Similarly, no Party waives any right to object on any
20 ground to use in evidence of any of the material covered by this Protective Order.

21 12.3 Filing Protected Material. A Party that seeks to file under seal any
22 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
23 only be filed under seal pursuant to a court order authorizing the sealing of the specific
24 Protected Material at issue. If a Party's request to file Protected Material under seal is
25 denied by the court, then the Receiving Party may file the information in the public
26 record unless otherwise instructed by the court.

27 13. FINAL DISPOSITION

28 After the final disposition of this Action, as defined in paragraph 4, within 60

1 days of a written request by the Designating Party, each Receiving Party must return all
2 Protected Material to the Producing Party or destroy such material. As used in this
3 subdivision, “all Protected Material” includes all copies, abstracts, compilations,
4 summaries, and any other format reproducing or capturing any of the Protected
5 Material. Upon request by the Designating Party after the conclusion of this Action, the
6 Receiving Party must submit a written certification (via U.S. Mail, facsimile, or e-mail)
7 to the Producing Party (and, if not the same person or entity, to the Designating Party)
8 within ten (10) days of said request that confirms that all the Protected Material and
9 Confidential Information and Items produced have been returned, deleted and/or
10 destroyed and that affirms that the Receiving Party has not retained any copies,
11 abstracts, compilations, summaries or other forms of reproducing or capturing any of
12 the Protected Material and Confidential Information and Items. Notwithstanding this
13 provision, Counsel are entitled to retain an archival copy of all pleadings, motion
14 papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence,
15 deposition and trial exhibits, expert reports, attorney work product, and consultant and
16 expert work product, even if such materials contain Protected Material. Any such
17 archival copies that contain or constitute Protected Material remain subject to this
18 Protective Order as set forth in Section 4 (DURATION).

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1 14. Any violation of this Order may be punished by any and all appropriate measures
2 including, without limitation, contempt proceedings and/or monetary sanctions.

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4 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

5 DATED September 13, 2019

OSTERGAR LAW GROUP P.C.

6 By: /s/ John Lattin
7 John Lattin
8 Attorneys for Plaintiff
9 MARIA BULMAN

10 DATED: September 13, 2019

WINSTON & STRAWN LLP

11
12 By: /s/ Jason S. Campbell¹
13 Joan B. Tucker Fife
14 Emilie C. Woodhead
15 Jason S. Campbell
16 Attorneys for Defendant
17 U.S. BANCORP

18 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

19 DATED: September 13, 2019

20
21 
22 _____
23 Honorable Karen E. Scott
24 United States Magistrate Judge
25
26
27

28 ¹ I attest that John Lattin concurs in this filing's content and has authorized its filing.

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of _____
4 [print or type full address], declare under penalty of perjury that I have read in its
5 entirety and understand the Stipulated Protective Order that was issued by the United
6 States District Court for the Central District of California on [date] in the case of *Maria*
7 *Bulman v. U.S. Bancorp, et al.*, Case No. 8:19-cv-00001-JLS (KESx). I agree to comply
8 with and to be bound by all the terms of this Stipulated Protective Order and I
9 understand and acknowledge that failure to so comply could expose me to sanctions and
10 punishment in the nature of contempt. I solemnly promise that I will not disclose in any
11 manner any information or item that is subject to this Stipulated Protective Order to any
12 person or entity except in strict compliance with the provisions of this Order.

13 I further agree to submit to the jurisdiction of the United States District Court for
14 the Central District of California for the purpose of enforcing the terms of this Stipulated
15 Protective Order, even if such enforcement proceedings occur after termination of this
16 Action. I hereby appoint _____ [print or type full name] of
17 _____ [print or type full address and telephone number] as
18 my California agent for service of process in connection with this Action or any
19 proceedings related to enforcement of this Stipulated Protective Order.

20 Date: _____

21 City and State where sworn and signed: _____

22
23 Printed name: _____

24
25 Signature: _____
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